

MAY 06 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANDY ATIGHI,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 06-74127

Tax Ct. No. 5565-05

MEMORANDUM *

Appeal from a Decision of the
United States Tax Court

Submitted April 22, 2008**

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Andy Atighi appeals pro se from the tax court's order granting the
Commissioner's motion for entry of decision and upholding a federal income tax

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

deficiency for 2002. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review for an abuse of discretion. *Doi v. Halekulani Corp.*, 276 F.3d 1131, 1136 (9th Cir. 2002). We affirm.

The tax court did not abuse its discretion because the record confirms that, prior to trial, the parties settled Atighi's action challenging the deficiency determination, and Atighi paid the assessed deficiency. *See Callie v. Near*, 829 F.2d 888, 890 (9th Cir. 1987) (explaining that tax court has equitable power to enforce summarily an agreement to settle a case pending before it).

Atighi's remaining contentions are unpersuasive.

AFFIRMED.